

## February 2006 Litigation Report

To: Mayor McCoy & County Commissioners  
 From: Bob Shillinger, Asst. County Attorney *BS*  
 Date: February 10, 2006  
 cc: Tom Willi, County Administrator  
 Richard Collins, County Attorney

### Summary

<u>Number of Cases</u>			
New cases filed since last month	2	Airports	2
Cases closed since last report	1	Community Services	1
CAY active cases <sup>i</sup>	59	Engineering	7
CAY Post Judgment cases	4	Growth Management	57
Potential cases not yet filed	5	Miscellaneous <sup>ii</sup>	4
Outside Counsel Cases	29	Constitutional Officers	3
		Personnel	3
		Public Works	5
Total Cases pending	71	Risk Management	6
New Cases		Page	2
Cases Closed			2
CAY Litigation Cases Trial & Appellate Level			3
CAY Post Judgment Cases			17
Potential Cases			18
Outside Counsel Cases			19
Ferencik, Libanoff (Ira Libanoff) (3 cases)			19
Johnson, Anselmo, (Bruce Johnson & Michael Burke) (14 cases)			20
Paul, Hastings (Bob Freilich & Derek Howard) (2 cases)			24
Includes White & Smith (Tyson Smith) on 1 caes			
The Smith Law Firm (Wayne Smith) (2 cases)			24
Vernis & Bowling (D.Smits, K.Willis & S.Black) (5 cases)			26

### CASES FILED SINCE LAST MONTH'S REPORT

**Osborn, Jeff v. Monroe County** **3D06-52**  
**Third DCA** **Judges: TBA** **Date Filed: 1/11/06**  
Certiorari appeal of CA P 04-564 on Northstar Project. V & B handling. **RBS**  
**Growth Management/Planning**

**Current Status:** Motion to dismiss filed.

**Next Activity:** Await ruling on Motion to Dismiss

**Billing received to date: none**

**Tropex Construction Service, Inc. v. Monroe County** **CA P 06-44**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 1/30/06**  
Breach of contract suit filed by contractor who terminated contract to build  
Tavernier Fire Station before commencement of construction.  
**Engineering/Construction Management** **RBS**

**Current Status:** Awaiting service.

**Next Activity:** Decision on outside or in house counsel.

**CAY Time:** .1 **Costs:** 0.00

### CASES CLOSED SINCE LAST MONTH'S REPORT

**Monroe County v. Blair & Althea Mooney** **CAK-05-TBA**  
**Circuit Court 16<sup>th</sup>** **Judge: TBA** **Date Filed:**  
Code lien collection action authorized by BOCC on 10/17/04. \$146,100.00.  
**Growth Management/Code Enforcement** **PJM**

**Current Status:** Fine of \$7,305.00 paid.

**Next Activity:** Closed.

**Time:** 2.0 hours **Costs:** 0.00



**CAY LITIGATION – Trial & Appellate Level**  
**See Outside Counsel Section for Cases being Handled Jointly**

**Ambrose, Thora et al v. Monroe County et al** **CA P 97-636**

**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 12/11/97**

Declaratory Judgment action claiming vested rights due to subdivision plats.  
Subsequent appeal of summary judgment order reversed and remanded.

**Growth Management/Planning** **JDS**

**Current Status:** Status inquiry with Judge's chambers pending.

**Next Activity:** If needed, schedule hearing on Motion to Dismiss.

**M&H Billing to date:** \$30,960.98.

**CAY Time:** 1.0

**In re: Birch Telecom, Inc.** **05-12237 PJW**

**U.S.Bnkcty.Delaware** **Judge: Walsh** **Date Filed: 8/12/05**

Bankruptcy action by pay phone vendor which claims it owes County \$4.15 for  
providing pay phones on County property.

**Administrative Services/Technical Services** **RBS**

**Current Status:** Claim deadline passed 11/4/05. County's interest \$4.15.

**Next Activity:** None.

**Time:** 1.0 **Costs:** 0.00

**In re: Meghan Cole** **05-43879 RAM**

**Bankrtcy. S.D.Fla.** **Judge: Mark** **Date Filed: 10/17/05**

Bankruptcy action by tenant of County property. County owed \$760.00 in rent.

**Bankruptcy** **RBS**

**Current Status:** County's interest too minimal to take more than passive  
stance.

**Next Activity:** Final approval of plan or discharge.

**Time:** 1.0 **Costs:** 0.00

**Collins, C. & Sum Air Services v. Monroe County, et al** **CAM-05-146**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 6/1/05**  
Declaratory judgment action regarding lease with FBO at Marathon Airport.  
**Airports** **PJM**

**Current Status:** Awaiting service of complaint.

**Next Activity:** Voluntary dismissal by the Plaintiff after settlement of companion case is finalized.

**Time:** 0.5 hours **Costs:** 0.00

**Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services** **CAK-05-617**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/21/05**  
Complaint for unspecified damages. Mayor not served yet.  
**MCSO** **RBS**

**Current Status:** Awaiting service.

**Next Activity:** Once served, determine if insurance coverage requires retaining outside counsel.

**Time:** 0.6 hours **Costs:** 0.00

**Eads, Barbara v. Monroe County** **CAP-03-117**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 2/27/03**  
Appeal of order finding the Lowe House to be in unsafe condition.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Appeal stayed; building permit issued.

**Next Activity:** File status report with Court.

**Time:** 3.8 hours **Costs:** 0.00

**EEOC v. Monroe County** **150-2005-03773**  
**EEOC – Miami** **Judge: N/A** **Date Filed: 9/7/05**  
Charge of disability discrimination filed by an employee.  
**Public Works/Personnel** **PJM**

**Current Status:** Negotiating conciliation dates.

**Next Activity:** Conciliation to be scheduled.

**Time:** 16.6 hours **Costs:** 0.00



**Emmert, Helen & Greg v. Monroe County****CA P 02-520****Circuit Court 16<sup>th</sup>****Judge: Garcia****Date Filed: 10/2/02**

Inverse condemnation and vested rights action.

**Growth Management/Planning****RBS/JDS****Current Status:** 4<sup>th</sup> amended complaint filed 1/17/06.**Next Activity:** File Motion to Dismiss and/or Defensive Pleadings to fourth Amended Complaint by 2/28/06.**M&H Billing to date:** \$94,550.56 as of 10/31/05**CAY Time:** 2.5**Fuchs, Walburga v. Monroe County****CAK-01-1251****Circuit Court 16<sup>th</sup>****Judge: Payne****Date Filed: 10/5/01**

This is a code enforcement appeal of an OSTDS case.

**Growth Management/Code Enforcement****RBS****Current Status:** The County's brief filed; case reassigned to Judge Payne.**Next Activity:** Await Court's decision.**Time:** 11.5 hours**Costs:** 0.00**Good, Lloyd v. Monroe County****CA K 01-977****Circuit Court 16<sup>th</sup>****Judge: Payne****Date Filed: 8/9/01**

Inverse condemnation action based on NROGO and declaratory judgment that owner be awarded permits for properties.

**Growth Management/Planning****RBS****Current Status:** Amended case management order filed.**Next Activity:** Provide information per case management order on 3/15/06.**M&H Billing to date:** \$18,526.41 as of 10/31/05.**CAY Time:** 5.5

**Hardin, Michelle v. Monroe County** **CA K 99-1046**  
**Circuit Court 16<sup>th</sup>** **Judge: Miller** **Date Filed: 9/3/99**  
Appeal of code enforcement decision.  
**Growth Management/Code Enforcement** **PJM**

**Current Status:** Status review on pending motions.

**Next Activity:** Hearing on Motion to Dismiss, tba.

**M&H Billing to date:** \$10,241.57 thru 8/31/05.  
**CAY Time:** 2.5

**Johnson, Lloyd v. Marlene Conaway** **CA K 02-1248**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 10/30/02**  
Writ of Mandamus challenging Planning Director's determination that boundary determination by alleged error requires zoning map amendment.  
**Growth Management/Planning** **JDS**

**Current Status:** Status report from Judge's chambers pending.

**Next Activity:** If needed, schedule hearing on Motion to Dismiss.

**M&H Billing to date:** \$2,219.62 through 8/31/05.  
**CAY Time:** 3.0

**Kalan, Suzanne v. Monroe County** **CA P 03-155**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 3/11/03**  
Inverse condemnation action.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Held in abeyance pending BUD hearing.

**Next Activity:** Finalize motion for substitution of counsel of CAY for former counsel.

**M&H Billing to date:** \$2,855.77 as of 8/31/05.  
**CAY Time:** 1.0



**LaSalle Bank, N.A. v. Alexis & Jesus Victores & Monroe County CAP 05-373**  
**Circuit Court 16<sup>th</sup> Judge: Garcia Date Filed: 8/29/05**  
Mortgage foreclosure action where County holds an inferior \$100.00 lien.  
**Growth Management/Code Enforcement RBS**

**Current Status:** Auction scheduled for 3/3/6.

**Next Activity:** Claim payment out of auction proceeds.

**Time:** 1.5 hours **Costs:** 0.00

**Monroe County v. R. Bernstein/Safe Harbor Marine Railway CAK-05-732**  
**Circuit Court 16<sup>th</sup> Judge: Miller Date Filed: 7/26/05**  
Code enforcement lien foreclosure. Over \$221,800.00.  
**Growth Management/Code Enforcement RBS**

**Current Status:** DF's answer overdue.

**Next Activity:** Move for default if no responsive pleading by 2/28/06.

**Time:** 7.7 hours **Costs:** \$576.00

**Monroe County v. Matthew Bonnett CAK-05-911**  
**Circuit Court 16<sup>th</sup> Judge: TBA Date Filed: 9/9/5**  
Code enforcement lien collection action authorized 10/17/04, \$78,000.  
**Growth Management/Code Enforcement PJM**

**Current Status:** County's motion for summary judgment denied. DF's answer overdue.

**Next Activity:** Negotiations ongoing, move for default judgment by 3/1/06 if not successful.

**Time:** 6.8 hours **Costs:** \$295.00

**Monroe County v. Boy Scouts of America CA K 06-139**  
**Circuit Court 16<sup>th</sup> Judge: TBA Date Filed: 2/10/6**  
Code fine collection action authorized on 9/28/05. Fine fixed at \$408,000.00.  
**Growth Management/Code Enforcement PJM**

**Current Status:** Complaint filed.

**Next Activity:** File suit by 1/31/06.

**Time:** 1.5 hours **Costs:** \$276.00

**Monroe County v. Alain Y. Depierrefeu** **CAK-03-1504**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Negotiations ongoing.

**Next Activity:** If unsuccessful, move for auction date.

**V & B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 6.6

**Monroe County v. Alain Y. Depierrefeu** **CAK-03-1507**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** same as previous entry.

**Next Activity:** If negotiations unsuccessful, move to schedule auction.

**V&B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 3.5 hours

**Monroe County v. Jack Hagopian** **CAP 03-529**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 10/1/03**  
Code enforcement collection action authorized by BOCC on 8/20/03. Fine exceeds \$300,000.00 as of 1/1/6 and accruing at \$250.00 per day.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement Agreement returned for proper execution and proper payment. Compliance deadline missed.

**Next Activity:** Cure defects or go to trial.

**Time:** 42.0 hours **Costs:** \$801.70



**Monroe County v. Dorothy Hough, et al** **CAP-05-160**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 4/6/05**  
Code enforcement collection action authorized by BOCC on 9/17/03. As of  
9/25/03 lien valued at \$25,050.00 and accruing at \$50.00 per day.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** County counter-offered to settle for \$15,470.

**Next Activity:** Schedule motions if not settled by 2/24/06.

**Time:** 11.6 hours **Costs:** \$596.00

**Monroe County v. James Jeanquenat** **CAP-05 317**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 7/18/05**  
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Motion for Dismiss filed.

**Next Activity:** Motion hearing TBA.

**Time:** 3.7 hours **Costs:** \$275.00

**Monroe County v. Key Largo Ocean Resorts Coop, Inc.** **CAP-96-260**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 5/20/96**  
Action to foreclose a code enforcement lien.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Development agreement application being reviewed.

**Next Activity:** Status report due with the Court 4/1/06.

**Time:** 41.5 hours **Costs:** \$340.00

**Monroe County v. Pedro Liz** **CAK-05-420**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 4/22/05**  
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Default set aside.

**Next Activity:** DF's Answer overdue.

**Time:** 8.1 hours **Costs:** \$555.00

**Monroe County v. Mary Ellen Lloyd** **CAM-03-362**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/19/03**  
Code enforcement foreclosure action authorized by the BOCC 4/18/03.  
The total amount of the lien owed to the County is \$143,500.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Clarifying double filing by prior counsel.

**Next Activity:** Draft settlement agreement with Defendant.

**V&B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 2.3 hours

**Monroe County v. Arthur Mehr** **CAP-05-348**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 8/5/05**  
Code fine collection action. Fine exceeds \$42,000.00.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Discovery received 1/11/6.

**Next Activity:** Discovery & negotiations.

**Time:** 7.4 hours **Costs:** \$850.00.

**Monroe County v. James Messera, et al** **CAK-03-1509**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Discovery process

**Next Activity:** Discovery.

**V & B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 3.0

**Monroe County v. Outland Properties** **CAP-05-400**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 9/9/5**  
Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.  
**Growth Management/Code Enforcement** **PJM**

**Current Status:** Defendant served.

**Next Activity:** Discovery.

**Time:** 1.6 hours **Costs:** 300.00



**Monroe County v. Joe Posada, III** **CAK-03-1503**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**  
Code enforcement foreclosure action authorized by the BOCC 4/18/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement negotiations pending.

**Next Activity:** If unsuccessful, April 2006 bench trial.

**V & B Fees & Costs billed to date:** None.  
**CAY Time:** 4.6 hours

**Monroe County v. Virginia Sawyer & Tony Welters** **CAK-03-1505**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**  
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement negotiations pending.

**Next Activity:** If unsuccessful, move for summary judgment.

**V & B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 2.0

**Monroe County v. Virginia Sawyer** **CAK-03-1506**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**  
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Court approved settlement agreement, injunction, lien.

**Next Activity:** Enforcement if not compliance.

**V&B Fees & Costs billed to date:** \$11,745.44  
**CAY Time:** 6.7 hours

**Monroe County v. Louis Welters** **CAK-04-639**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/14/04**  
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Settlement negotiations pending.

**Next Activity:** If unsuccessful, move for summary judgment.

**V&B Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 2.5

**O'Daniel, John & Theresa Hill v. Monroe County** **CA P 02-141**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 3/13/02**  
Appeal of code enforcement action and vested rights claim.  
**Growth Management/Code Enforcement/Planning** **JDS**

**Current Status:** Mandate from Third DCA received 1/13/06.

**Next Activity:** Status inquiry with chambers pending.

**M&H Billing to date:** \$42,782.73 as of 10/31/05  
**CAY Time:** 2.5

**O'Daniel & Hill v. Monroe County** **3D-05-583**  
**Third DCA** **Judges: TBA** **Date Filed: 3/18/05**  
Appeal of circuit court decision in CA P 02-141.  
**Growth Management/Code Enforcement/Planning** **JDS**

**Current Status:** Mandate issued 12/27/05.

**Next Activity:** None. Close file.

**M&H Billing to date:** *See trial level report.*  
**CAY Time:** 1.5

**Neumont, Elizabeth et al. v. Monroe County** **99-10054-CV**  
**U.S. Dist. Ct., S.D.Fla.** **Judge: Paine** **Date Filed: 5/21/99**  
Class action challenging enactment of vacation rental ordinance.  
**Growth Management/Planning** **RBS**

**Current Status:** Briefs completed.

**Next Activity:** Finalize motion for substitution of counsel of CAY for former counsel.

**M&H Billing to date:** \$123,563.24.  
**CAY Time:** 0.5



**Neumont, Elizabeth et al. v. Monroe County** **04-13610-X**  
**11<sup>th</sup> Circuit Court of Appeals** **Judges: TBA** **Date Filed: 7/15/04**  
Appeal of 99-10054-CV above.  
**Growth Management/Planning** **RBS**

**Current Status:** Awaiting decision of the Court.

**Next Activity:** Finalize motion for substitution of counsel of CAY for former counsel.

**Billing to date:** \$123,565.49 as of 8/31/05 (by former outside counsel).  
**CAY Time:** 0.5

**Nunziant, Marilyn v. Monroe County** **CAK-04-1227**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 11/18/04**  
Suit challenging Bayshore's rule requiring family members to subsidize residents.  
**Community Services/Social Services** **RBS**

**Current Status:** PL has been moved to nursing home due to declining health.

**Next Activity:** County's motion to dismiss to be heard 3/23/06 at 4:30 pm.

**Time:** 76.7 hours **Costs:** 0.00

**Rodriguez, Vivian v. Monroe County, Islamorada, & DOT** **CA P 05-526**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 11/30/05**  
Action for negligence due to injuries on DOT right of way.  
**Public Works/Risk Management** **RBS**

**Current Status:** County filed motion to quash invalid service. Plaintiff agreed to stay until DOT answers to see if DOT claiming County at fault.

**Next Activity:** March 6, 2006 review to status.

**CAY Time:** 7.7 **Costs:** 0.00

**Sierra Club, et al v. DCA, Miami Dade & City of Homestead** 03-150-GM  
**DOAH** Judge: Maloney Date Filed: 1/17/03

County intervened in administrative challenge to amendment of Miami-Dade's  
comp. plan redesignating Krome Avenue to a major roadway (3 or more lanes).  
**Growth Management/Planning** JDS

**Current Status:** Proposed Recommended Order filed 2/3/6.

**Next Activity:** Await ruling by ALJ.

**Billing to date:** None, *pro bono*. (by former outside counsel).

**CAY Time:** 6.0

**Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al** CAM-04-404  
**Circuit Court 16<sup>th</sup>** Judge: Payne Date Filed: 12/16/04

Declaratory judgment action over road in City of Marathon.  
**Public Works/Roads and Bridges** PJM

**Current Status:** Discovery. Settlement negotiations ongoing.

**Next Activity:** County's motion to dismiss TBA pending negotiations.

**Time:** 9.5 hours

**Costs:** \$133.00

**Troy, Daniel Scott v. Monroe County** CAK 05-856  
**Circuit Court 16<sup>th</sup>** Judge: Jones Date Filed: 8/24/05

Mandamus action seeking after the fact building permits.  
**Growth Management/Planning** RBS

**Current Status:** On appeal in 3D 05-2419.

**Next Activity:** None while on appeal.

**Time:** 2.0 hours

**Costs:** 0.00

**Troy, Daniel Scott v. Monroe County** 3D 05-2419  
**Third DCA** Judges: TBA Date Filed: 10/7/05

Appeal of denial of writ of mandamus in CA K 05-856.  
**Growth Management/Planning** RBS

**Current Status:** Troy given until 2/21/06 to file his brief.

**Next Activity:** Draft reply to Troy's brief whenever it arrives.

**Time:** .7

**Costs:** 0.00



**Walgreens & Gadinsky v. Monroe County**

**CAK-05-266**

**Circuit Court 16<sup>th</sup>**

**Judge: Taylor**

**Date Filed: 3/11/05**

Cert. review of DOAH order upholding 1/6 findings supporting denial of major conditional use application for Big Pine Walgreens.

**Growth Management/Planning**

**RBS**

**Current Status:** Negotiations ongoing.

**Next Activity:** Finalize agreement and present to BOCC & Court for OK.

**Time:** 33.8 hours

**Costs:** \$318.57

**In re: Winn Dixie Stores, Inc.**

**05-03817-3F1**

**U.S. Bankruptcy Ct., M.D.Fla. Judge: Jerry Funk**

**Date Filed: 2/25/05**

Voluntary Ch11 case where County *might* have a claim against the estate.

**Bankruptcy**

**RBS**

**Current Status:** Could find no basis for filing proof of claim.

**Next Activity:** None needed.

**Time:** 0.9 hours

**Costs:** 0.00

## CAY POST JUDGMENT CASES

**Evans, Brian v. Monroe County, et al** **04-CIV-10033-JLK**  
**U.S. Dist., S.D. Fla. (Miami) Judge: King** **Date Filed: 5/6/04**  
Money Judgment of \$4,579.00 in favor of County & MCSO for rule 11 sanctions.  
**Constitutional Officer/MCSO** **RBS**

**Current Status:** Award to County & Sheriff of \$4,579.00 in attorney's fees against Evans for filing frivolous suit affirmed by 11<sup>th</sup> Circuit on 9/20/05.

**Next Activity:** Collection.

**CAY Time:** 9.5 hours

**Costs:** 0.00

**Monroe County v. William L. Davis** **CAP-04-181**  
**Circuit Court 16<sup>th</sup> Judge: Garcia** **Date Filed: 4/15/04**  
Money judgment of **\$27,600.00** for unpaid code enforcement fines and costs.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Final judgment of \$28,431.00 recorded w/ Dept. of State.

**Next Activity:** Collection.

**Time:** 6.2 hours

**Costs:** \$56.00

**Monroe County v. Dan Gleason** **SCP-03-165**  
**County Court (Sm. Claims) Judge: Ptomey** **Date Filed: 8/5/03**  
Money judgment of **\$520.00** for unpaid code enforcement fines and costs.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Final judgment recorded w/ Dept. of State.

**Next Activity:** Collection.

**Time:** 9.5 hours

**Costs:** \$65.92

**Monroe County v. Lily Marks** **CAK-03-1152**  
**Circuit Court 16<sup>th</sup> Judge: Jones** **Date Filed: 10/2/03**  
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.  
**Growth Management/Code Enforcement** **RBS**

**Current Status:** Final judgment entered for \$795,270.00 on 5/9/05.

**Next Activity:** Collection.

**Time:** 8.5 hours

**Costs:** \$55.00



## POTENTIAL CASES THAT HAVE NOT YET BEEN FILED

### Calusa Campground Condo v. Monroe County, et al., CA P 06 TBA

Circuit Court (16<sup>th</sup>)

Judge:

Date Filed:

Threatened action by condominium resulting from statements regarding platting requirements by Growth Management personnel.

**Growth Management/Planning**

**JDS**

**Current Status:** Investigating claim and assisting Growth Management Division in preparation of responses to claimant.

**Next Activity:** Awaiting claimant's filing proper subdivision plat for approval.

**Time:** 2.5

**Costs:** 0.00

### Good, Lloyd v. Monroe County

**CAK-05-TBA**

Circuit Court (16<sup>th</sup>)

Judge:

Date Filed:

Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.

**Growth Management/Planning**

**RBS**

**Current Status:** Settlement discussions underway.

**Next Activity:** None. Stayed during Good's application for major conditional use.

**Time:** 8.6 hours

**Costs:** \$5.56

### Hamelton, Charles v. KWRU & Monroe County

**CA K 04-740**

Circuit Court (16<sup>th</sup>)

Judge: Miller

Date Filed: 7/6/04

Potential personal injury claim by scooter accident victim and/or utility seeking damages from the County. Handled jointly with Johnson, Anselmo.

**Public Works/Roads and Bridges/Risk Management**

**RBS**

**Current Status:** County not a party at this time.

**Next Activity:** None scheduled.

**Fees Billed to Date:** 0.00

**Costs:** 0.00

**CAY Time:** 6.7

**Monroe County v. Estate of Thomas O'Brien** **SCK-05-TBA**

**Small Claims Monroe** **Judge: TBA** **Date Filed:**

Action against estate to collect unpaid ambulance bill of \$861.81.

**Emergency Services/EMS**

**RBS**

**Current Status:** Offer pending to settle for \$500.00

**Next Activity:** Settle or file suit by February 24, 2006

**Time:** 1.2

**Costs:** 0.00

**State of Florida v. Monroe County** **TBA**

**TBA** **Judge: TBA** **Date Filed: n/a**

Threatened action by AG's Medicaid Fraud unit regarding alleged over billings for ambulance services.

**Public Safety/Fire Rescue**

**RBS**

**Current Status:** Waiting for AG's office to set up conference.

**Next Activity:** Settlement conference with State.

**Time:** 9.2 hours

**Costs:** 0.00



## **CASES BEING LITIGATED BY OUTSIDE COUNSEL**

**Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.**

**Monroe County v. Bender & Associates, et al** **CAK-03-915**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 8/4/03**  
Breach of contract and negligent misrepresentation action arising from the  
defective windows in the Gato building.  
**Engineering/Construction Management** **RBS**

**Current Status:** Discovery ongoing.

**Next Activity:** Discovery ongoing.

**Fees billed to date:** \$69,892.50 **Costs:** \$8,773.50 (thru 10/31/5)

**Monroe County v. Jose Gonzalez** **CA K TBA**  
**Circuit Court 16<sup>th</sup>** **Judge: TBA** **Date Filed: TBA**  
Possible breach of contract action against County's former architect.  
**Engineering/Construction Management** **RBS**

**Current Status:** Discussions with Gonzalez

**Next Activity:** Schedule meeting with staff & Gonzalez.

**Fees billed to Date:** \$3,885.50  
**CAY Time:** 12.5

**Monroe County v. Lodge Construction, et al** **CAK-00-617**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 5/11/00**  
Suit filed against general contractor Lodge Construction & its surety for breach of  
contract to build Gato Building.  
**Engineering/Construction Management** **RBS**

**Current Status:** Trial preparations.

**Next Activity:** Set for trial April 2006.

**Fees billed to date:** \$298,015.25 **Costs:** \$71,523.31 (thru 10/31/05).

**Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.**

**Bauknight, Skaggs & Rockett v. Monroe County** **CAP-04-451**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 9/24/04**  
Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.  
**Growth Management/Planning** **RBS**

**Current Status:** Third party complaint against State filed 1/11/06.

**Next Activity:** Discovery.

**Fees billed to date:** \$832.24 **Costs:** 0.00

**Bauknight, Skaggs & Rockett v. Monroe County** **04-CV-10105**  
**U.S. D.C. S.Fla.** **Judge: Moore** **Date Filed: 11/1/04**  
Inverse condemnation/takings case by owners of 3 Big Pine lots.  
**Growth Management/Planning** **RBS**

**Current Status:** All but fees remanded to State Court. Denial of fees motion appealed to 11<sup>th</sup> Circuit.

**Next Activity:** None.

**Fees billed to date:** None **Costs:** 0.00

**Bauknight, et al. v. Monroe County** **05-10868-F**  
**11<sup>th</sup> Cir. Ct. of Appeals** **Judge: TBA** **Date Filed: 2/11/05**  
Appeal of denial of attorney's fees motion filed against the County by takings case plaintiffs. County had removed the case to Federal Court; plaintiffs sought remand and attorneys fees. Case was remanded to state court but fees denied. Plaintiffs are seeking between \$15,000 and \$18,000 in fees.  
**Growth Management/Planning** **RBS**

**Current Status:** Briefs completed; oral argument held 12/9/05.

**Next Activity:** None; await decision of Court.

**Fees billed to date:** None. **Costs:** 0.00



**Florida Key Deer v. Michael Brown & Gale Norton** **90-10037-CIV-Moore**  
**U.S. Dist. Ct., SD Fla. Judge: Moore Date Filed: 4/2/90**  
ESA case that resulted in permanent injunction barring FEMA flood insurance.  
**Growth Management/Planning RBS**

**Current Status:** Court denied all intervention motions.

**Next Activity:** Intervention motions on appeal; negotiations ongoing.

**Billing to Date:** none **Costs:** 0.00  
**CAY Time:** 33.8

**Florida Key Deer, et al v. R.D. Paulson, et al** **05-16374-II**  
**11<sup>th</sup> Circuit Judges: TBA Date Filed: 11/10/05**  
Appeal of Southern District's injunction in 90-10037-CIV.  
**Growth Management/Planning RBS**

**Current Status:** Jurisdiction briefs requested by Court.

**Next Activity:** File jurisdiction briefs.

**Billing to date:** none  
**CAY Time:** 0.5 **Costs:** 0.00

**Monroe County v. Florida Key Deer, et al** **05-16990-II**  
**11<sup>th</sup> Circuit Judges: TBA Date Filed: 12/12/05**  
Appeal of denial of County's motion to intervene in 90-10037-CIV.  
**Growth Management/Planning RBS**

**Current Status:** Preliminary jurisdiction questions pending.

**Next Activity:** Draft briefs.

**Billing to Date:** None  
**CAY Time:** 0.5

**Florida Key Deer, et al v. Gale Norton (Sec. of Interior)** 05-10063-CIV-KING  
**U.S.D.C. S.D.Fla.** Judge: King Date Filed: 6/15/05  
ESA challenge to F&WS review of construction of park on Big Pine Key.  
**Engineering/Construction Management** RBS

**Current Status:** Case stayed while F&WS revises biological opinion.

**Next Activity:** Stayed until January 2006.

**Fees billed to date:** \$612.50 **Costs:** 0.00  
**CAY Time:** 6.3

**Hyland, Thomas G. v. D. Kolhage & R. Thurston** 04-10102-CIV  
**U.S.D.C.SD.Fla.** Judge: Highsmith Date Filed: 10/21/04  
Civil Rights action against Deputy Clerk of Court by inmate. Kolhage dismissed  
in 28 USC 1915 screening process.  
**Constitutional Officer/Clerk** RBS

**Current Status:** Voluntarily dismissal withdrawn by Hyland.

**Next Activity:** File Answer.

**CAY Time:** 2.8 **Costs:** 0.00  
**Johnson, Anselmo billing to Date:** none

**FKCC & Last Stand v. FL Admin. Comm., Monroe County** DOAH 04-2756  
**DOAH** Judge: Carolyn Holifield Date Filed: 08/05/04  
Administrative Rule challenge to partnership agreement with State.  
**Growth Management/Planning** RBS

**Current Status:** Final Order in County's favor issued 6/29/05.

**Next Activity:** None pending appeal.

**Fees billed to date:** \$59,464.92 **Costs:** 0.00  
**CAY Time:** 190.1 hours



**FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al** 3D05-1800

**Third DCA**

**Judges: TBA**

**Date Filed: 7/28/05**

Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.

**Growth Management/Planning**

**RBS**

**Current Status:** Appellant's brief filed.

**Next Activity:** County & DCA's brief deadline extended until after disposition of Marathon's motion to dismiss.

**Fees billed to date: none**

**CAY Time:** 0.5 hours

**Costs:** 0.00

**Hardee, Evelyn v. Monroe County**

**CAP-05-255**

**Circuit Court 16<sup>th</sup>**

**Judge: Garcia**

**Date Filed: 6/3/05**

Tort action arising from alleged fall at PK Court house.

**Risk Management/Public Works**

**RBS**

**Current Status:** Discovery.

**Next Activity:** Deposition of Plaintiff, 3/6/6 in Miami.

**Fees billed to date:** \$660.20

**Costs:** 0.00

**CAY Time:** 2.6 hours

**Kessler, Stuart v. Monroe County & Tom Willi**

**CA K 05-1006**

**Circuit Court 16<sup>th</sup>**

**Judge: Jones**

**Date Filed: 10/11/2005**

Complaint for injunctive relief and damages under Whistle-Blower Act, Civil Rights Act, defamation and interference with business relationship.

**Personnel/Risk Management**

**RBS**

**Current Status:** County moved to dismiss Kessler's second amended complaint 2/1/6.

**Next Activity:** Hearing on motion to dismiss, tba.

**Billing to date:** 0.00

**CAY Time:** 28.6

**Costs:** 0.00

**Kessler, Stuart v. Monroe County & Tom Willi** **3D05-2755**  
**Third DCA** **Judges: TBA** **Date Filed: 11/28/05**  
Appeal of non-final order denying Kessler's petition for temporary reinstatement.  
**Personnel/Risk Management** **RBS**

**Current Status:** County filed appellate brief 2/2/6.

**Next Activity:** Kessler response brief due 2/13/06.

**Billing to date:** none  
**CAY Time:** 2.0 **Costs:** 0.00

**Neuman, Kenneth v. Monroe County** **CAK-04-663**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/21/04**  
Action for damages and to compel County to issue building permits.  
**Growth Management/Planning** **RBS**

**Current Status:** Discovery.

**Next Activity:** Discovery.

**Fees billed to date:** \$2,326.92 **Costs:** 0.00  
**CAY Time:** 5.8 hours

**Riverview Consultants, Inc. v. Monroe County** **CAK-05-373**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 4/13/05**  
Tortious interference with contract case. League of City's carrier counsel.  
**Risk Management/Airport/MCSO** **PJM**

**Current Status:** Discovery.

**Next Activity:** Discovery.

**Fees billed to date:** \$743.86 **Costs:** 0.00  
**CAY Time:** 4.5 hours

**Paul, Hastings (Bob Freilich)  
White & Smith (Tyson Smith)**

**Collins, Thomas, et al v. Monroe County** **CAM-04-379**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 11/22/04**  
Takings action brought by 11 groups of plaintiffs.  
**Growth Management/Planning** **RBS**

**Current Status:** Post summary judgment hearing briefs being completed.

**Next Activity:** Court's ruling on County's motion for summary judgment.

**Total Fees billed to date:** \$655,174.26  
**CAY Time:** 109.7 hours **Costs:** \$77,646.49

**Galleon Bay v. Monroe County v. State of Florida** **CA K 02-595**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 5/21/02**  
Inverse condemnation and vested rights action.  
**Growth Management/Planning** **RBS**

**Current Status:** Summary judgment as to liability granted 1/30/06.

**Next Activity:** Closed session of BOCC on 2/21/06.

**M & H Billing to date:** \$221,709.88 thru 10/31/05.  
**Paul, Hastings Billing:** \$90,519.11.  
**CAY TIME:** 56.5

**The Smith Law Firm**

**Monroe County v. Post Buckley, Schuh, and Jernigan** **CAK-95-402**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 3/30/95**  
Malpractice claim against the County's former engineering firm for miscalculation of bonds necessary to finance improvements to Card Sound Road.  
**Engineering** **RBS**

**Current Status:** Settled remaining issue.

**Next Activity:** Close file once dismissed by Court.

**Fees billed to date:** \$645,146.88.



**Monroe County v. Post Buckley, Schuh, and Jernigan** **3D05-1822**  
**Third DCA** **Judges: TBA** **Date Filed: 8/1/05.**  
Appeal of judgment in the above case.  
**Engineering** **RBS**

**Current Status:** Appeal became moot upon settlement.

**Next Activity:** Dismissal now that settled.

**Fees billed to date: see previous entry.**

**Vernis & Bowling of the Florida Keys, P.A.**

**GAP Properties of SW Florida-I, Inc. v. Monroe County** **CAK-04-1321**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/10/04**  
Cert. review of action involving failure to obtain plat approval of dock subdivision  
and an improper change of use without a major or minor conditional use permit.  
**Growth Management/Planning** **RBS**

**Current Status:** Certiorari denied, rehearing motion denied.

**Next Activity:** None, on appeal.

**Fees billed to date: \$26,875.00** **Costs: \$306.43**

**Gap Properties of SW Florida-I, Inc. v. Monroe County** **3D05-2413**  
**Third DCA** **Judges: TBA** **Date Filed: 10/14/5**  
Second tier certiorari appeal of denial of petition challenging County's plat  
approval rules for dockominiums, see CA K 04-1321 below.  
**Growth Management/Planning** **RBS**

**Current Status:** County's amended motion to dismiss pending.

**Next Activity:** Ruling on motion.

**Fees billed to date: see trial level** **Costs: None**

**Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry**      **CAK-04-224**  
**Circuit Court 16<sup>th</sup>**      **Judge: Jones**      **Date Filed: 3/2/04**

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications.

**Growth Management/Planning**

**RBS**

**Current Status:**      Motion to Dismiss Third Amended petition pending.

**Next Activity:**      Hearing on motion to dismiss, 3/14/6.

**Fees billed to date:** \$32,290.50

**Costs:** \$2,540.84

**Osborn, Jeff v. Monroe County**      **CAP-04-564**  
**Circuit Court 16<sup>th</sup>**      **Judge: Garcia**      **Date Filed: 11/24/04**

1 of 2 certiorari petitions challenging development approval of Northstar project.

**Growth Management/Planning**

**RBS**

**Current Status:**      Court denied petition 12/14/05.

**Next Activity:**      None until 1/15/6.

**Fees billed to date:** \$14,039.50

**Costs:** \$261.49

**Osborn, Jeff v. Monroe County**      **CAP-04-565**  
**Circuit Court 16<sup>th</sup>**      **Judge: Garcia**      **Date Filed: 11/24/04**

2 of 2 certiorari petitions challenging development approval of Northstar project.

**Growth Management/Planning**

**RBS**

**Current Status:**      Oral argument held 12/15/05.

**Next Activity:**      Await decision of Court.

**Fees billed to date:** \$3,920.50

**Costs:** \$146.93

Assigned Assistant County Attorney

PJM = Pedro Mercado

JDS = Jerry Sanders

RBS = Bob Shillinger

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<sup>i</sup> Includes cases listed under outside counsel where CAY has entered appearance.

<sup>ii</sup> 3 bankruptcy claims, and Emergency Services.